

# Executive Staff Addresses

## FREQUENTLY ASKED QUESTIONS

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## **Definitions**

As a rule of statutory construction, KRS 446.080(4) provides that, “all words and phrases shall be construed according to the common and approved use of language.” See also, St. Clair v. Commonwealth, Ky., 140 S.W.3d 510, 570-71 (2004)(statute words to be given common, ordinary or popular meaning); McElroy v. Taylor, Ky., 977 S.W.2d 929, 931 (1998)(statute words to be given literal meaning).

**Consult** – To seek advice from a Licensed Distributor or Licensed Distributor Representative for the operation, maintenance, and/or repair of Card-Minding Device System and/or Subsystem.

**Demonstrate** – To show clearly and deliberately; to present to the Charitable Organization practical applications of the Card-Minding Device System and/or Subsystem.

**Train** – To teach a Charitable Organization on the uses and performance; provide specialized instruction and the practicalities of a Card-Minding Device System and/or Subsystem.

## Bingo Rules of Play

**Question:** The organization sells a package. Included in the package are the speed games. The organization currently allows patrons that may be hearing impaired to give back the paper for the speed games plus \$1 for a different game to be played later in the evening. Can the organization continue to do this? If so, how should it be accounted for in the organization's records? If not, what options might be available to the organization in this circumstance?

**Answer:** 820 KAR 1:001 Section 1 (6) defines a package as "a group of bingo paper sheets or packs that are assembled together by an organization for sale at a gaming occasion." Once the package is assembled, items cannot be swapped in or out. This creates a different package and a different set of serial numbers have to be used and recorded separately on the session records. Therefore, in this situation, the speed game should be sold separately.

**Question:** Can an organization pre-print Player Pick sheets and can a patron use the Quik-Pik option?

**Answer:** Yes. 820 KAR 1:046 Section 5.

**Question:** Can an organization sell an unlimited amount of paper for a certain price (i.e. all you can play for \$20), or up to a certain amount of paper (faces) for a certain price (i.e. up to 20 faces for \$20)?

**Answer:** No - an exact amount of paper must be sold for an exact price. 820 KAR 1:046 Section 1 (17); 820 KAR 1:058 Section 2 (f).

**Question:** How does an organization account for bundling?

**Answer:** A charity doing bundling must have a person at the end of the table to count exactly what each customer has picked to make up their combination of faces and keep a record of it. No patron will be allowed to take less than the number of faces being sold. 820 KAR 1:046 Section 1 (17); 820 KAR 1:058 Section 2 (f).

**Question:** A patron comes in and purchases a package from the organization. The patron spills something on one item in the package and asks for a replacement of that one item. Should the organization replace the one item only? If so, from which set of paper (serial number) should it be replaced with and what records should be kept? Or, should the organization destroy the whole package and replace the package as a whole?

**Answer:** Sheet by sheet replacement out of one pack (or as many as necessary) is allowed. Record packs and/or sheets destroyed on session record pursuant to 820 KAR 1:058 Section 2 (e) at the end of night.

**Question:** Can an organization play Spin the Wheel in conjunction with a Bingo game? For example, the wheel is spun at the end of the game and the spin determines the amount to be awarded.

**Answer:** No - before selecting or calling the first number of the game, the bingo caller shall call out the amount of the prize to be awarded. 820 KAR 1:046

Section 2 (3).

**Question:** Can an organization offer for sale a packaged product, which on their program identifies a specific price for each pack or sheet within the package, and also sell the same pack or sheets as extra sales at the same price without having to use a different set of paper and/or different serial number?

**Answer:** No - There is no reason to package these items if they are sold for the same price individually. This only complicates recordkeeping and inventory and puts an enormous time burden on the organization. The organization should sell all these products individually. If the organization is concerned that a patron will not spend a minimum amount to play bingo, they can include a minimum buy-in as a house rule. 820 KAR 1:046 Section 1 (17); 820 KAR 1:058 Section 2 (f).

**Question:** Does the organization have to give a refund for a card-minding device (CMD) if they don't want to?

**Answer:** No - the regulation just sets out the procedure if a refund is given. 820 KAR 1:044 Section 6 (8) provides that "the organization shall void the original transaction and issue a new receipt if a player requests a partial or full refund."

**Question:** Does the organization have to have the alternate payout listed on the program?

**Answer:** Yes – 820 KAR 1:046 Section 2 (4) and 820 KAR 1:058 Section 1 (3)(i) require that the organization have "a copy of the gaming occasion program, which

shall include a printed listing of all bingo products for sale and the price of each product and all bingo games played and the payout for each game." Therefore, organizations must list alternative payouts. 820 KAR 1:046 Section 2 (3) provides that "before selecting or calling the first number in a game, the bingo caller shall call out the amount of the game prize to be awarded." Therefore, the alternative payout must be announced prior to the game.

**Question:** Can a progressive bingo have a consolation prize?

**Answer:** Yes - if both prizes are listed on the program. 820 KAR 1:058 Section 1 (3)(i) requires that the organization have "a copy of the gaming occasion program, which shall include a printed listing of all bingo products for sale and the price of each product and all bingo games played and the payout for each game."

**Question:** Can an organization provide bingo paper as a promotional item and not have to use vouchers for record keeping purposes?

**Answer:** Yes – provided the organization lists the type of paper (packs or sheets) on the gaming occasion program showing the price of each pack or sheet as \$0, complimentary, free or promotional item. However, organizations must comply with 820 KAR 1:058 Section 2 (1) (d) and record how much paper was given away on their session sheet. The office will propose amending the regulation.

**Question:** *If an organization uses a voucher to record how many Pulltabs were awarded as a prize in a bingo*

*game, can it also transfer the money from bingo payouts to Pulltabs?*

**Answer:** Yes. This is allowed by 820 KAR 1:036 Section 2 (20) (a).

### **Raffles**

**Question:** An organization receives cash donations from businesses for raffle prizes. The raffle sales are started in January and the drawing is not held until May. Where should this cash be deposited until the drawing? From what account should the raffle prizes be awarded when the drawing is held? Should the raffle prize be shown on the quarterly report as a cash payout? Or, should it not be shown on the quarterly report as a cash payout because the cash had been donated?

**Answer:** Deposit cash donations into the general account and pay the cash prize out of the general account. Report as cash payout on quarterly report.

**Question:** Can raffle tickets be sold in the state if the raffle is conducted elsewhere? Can you draw in the state if you are not licensed?

**Answer:** No - KRS 238.505 (2) defines charitable gaming to include raffles. KRS 235.535 (1) provides that any organization conducting charitable gaming in the state shall be licensed.

**Question:** Can you draw out of state if you are licensed?

**Answer:** No - KRS 238.535(8)(d) provides that an organization licensed by the state may draw in any county in the state with permission of the office.

**Question:** Can raffle tickets be given away?

**Answer:** No - KRS 238.545 (3) provides that "tickets for a raffle shall be sold separately, and each ticket shall constitute a separate and equal chance to win."

**Question:** How are raffle prizes identified if they are not on the ticket?

**Answer:** The other prizes can be announced prior to the drawing. KRS 238.545 (3) provides that all prizes for a raffle shall be identified in advance of the drawing and all prizes identified shall be awarded. 820 KAR 1:050 states that the ticket list each prize valued at over \$500.

**Question:** What if all the ticket stubs were not included in a drawing and the prize is given away?

**Answer:** The winner will get to keep the prize but the organization will be written a violation. 820 KAR 1:050 Section 3 (3) provides that each ticket seller shall return the stubs sold prior to the drawing and they shall be placed in the receptacle.

**Question:** Can raffle tickets be run off a copier and hand numbered?

**Answer:** No – If they were run off a copier and hand torn the tickets would be of unequal size and not have an equal chance to win pursuant to KRS 238.545 (3).

**Question:** Can an organization sell raffle tickets online?

**Answer:** Yes - but the organization may want to check with the U.S. Post Office

regarding their regulations. Postal regulations may prohibit tickets from being mailed. In this case, the organization would need to fill out the ticket and give the stub to the buyer when the buyer comes to the raffle.

**Question:** Must a winner of a raffle drawing claim the prize if the winner prefers to donate the prize back to the organization?

**Answer:** Yes - KRS 238.545 (3) provides that “all prizes for a raffle shall be identified in advance of the drawing and all prizes identified shall be awarded.” If the winners wish to donate it back to the organization or to another organization, they must do so after they claim the prize and after the winner’s information is recorded on the session record and on the quarterly report, if necessary.

If the winner does not claim the prize, the prize must be awarded to another winner pursuant to 820 KAR 1:050 Section 3 (6) which provides that “[i] a raffle winner does not claim the prize within 30 days after having been contacted, the organization shall notify the Office of Charitable Gaming and draw another ticket in the presence of office personnel.”

### **Pulltab Rules of Play**

**Question:** What are the differences between pulltab games?

**Answer:** The difference between the games is subtle but very important.

Multipackaged Deal 820 KAR 1:001  
Section 1 (46); 820 KAR 1:036  
Section 2 (3).

- one deal with same serial number with less than 4,000 tickets (**The office is proposing changing the regulation to increase ticket limit, no action will be taken on these games pending the change in regulation**);
- individual ticket winner cannot exceed \$599 whether on the ticket or on the prize board;
- total value of prize board **can** exceed \$2,400 (i.e., can have \$599 under each window on the board as long as ticket does not include any other winners); and
- may be played with or without a prize board (**regulation needs to be changed**).

Cumulative Game 820 KAR 1:001  
Section 1 (19); 820 KAR 1:036  
Section 7.

- multiple deals that contribute to a prize board (different serial numbers);
- more than 4,000 tickets;
- individual ticket winner cannot exceed \$599 not including the value of the prize on the board; and
- total board **cannot** exceed \$2,400 whether all in one window or spread out.

Progressive Game 820 KAR 1:001  
Section 1 (54); 820 KAR 1:036 Section  
6.

- multiple deals that contribute to a prize pool which increases in value until won;
- may be played with a new jackpot card each time or may be played off original jackpot card until won;
- instructions will designate how many pulls a holder gets off either card; and
- if charity plays original card, must play it until it is won; can develop house rules for how to handle “guaranteed” winner.

**Question:** Can an organization award a pulltab prize to a winner that cannot produce (because the patron lost or threw away) the winning ticket even though the organization saw the winning ticket during the current or prior session?

**Answer:** No - 820 KAR 1:036 Section 1 (10) provides that an organization cannot pay a winner unless the serial number on the ticket matches the serial number on the seal card. Clearly, if the patron does not have the ticket, this verification cannot be made.

**Question:** What is the correct procedure for mixing pulltabs? How long before the session do pulltabs have to be mixed? Does the organization have to sign the pulltab box when mixed?

**Answer:** 820 KAR 1:036 Section 2 (1) requires that pulltabs “be removed from

the box and mixed together prior to sale.” This ensures randomization. The office will not dictate when or how the organization should accomplish this requirement unless there is a particular problem with a particular organization.

**Question:** If a pulltab game is defective and the distributor and/or manufacturer needs the tickets back to give a refund, can the organization keep a copy?

**Answer:** Yes - While 820 KAR 1:036 Section 2 (15)(1) requires that an organization keep for 12 months “all winning pulltabs with a prize value of \$50 and over” the organization can keep a copy of the ticket with a memo explaining the problem if the manufacturer needs the original ticket back to make a refund or solve a problem.

**Question:** Can an organization sell pulltabs at their office location?

**Answer:** Yes - but they must inform the office when they are going to sell them at the office location on the license application. If they don’t list this information on the license application, then the organization must complete a change request and pay \$25. KRS 238.545 (1) (c) states that pulltabs shall be sold only at the address of the location designated on the license to conduct gaming.

**Question:** Must the organization attach a copy of the valid state identification card which contains the name, address, date of birth and state identification number of a winner to the jackpot prize card?



**Answer:** Yes – While KAR 820 1:036 (6) (12) requires this picture ID from all winners of a progressive pulltab game jackpot prize, the photo copy of the pictured ID can be kept with session records until the completion of the game and then attached to the jackpot prize seal card for record keeping purposes.

**Question:** If a patron presents a mutilated, defaced or torn winning pulltab for redemption which does not allow for the verification of serial number, winning symbol and/or number, would an organization be required to award the prize?

**Answer:** No - 820 KAR 1:036 Section 1 (10) provides that an organization cannot pay a winner unless the serial number on the ticket matches the serial number on the seal card. The serial number must be on the same part of the ticket as the undefaced winning symbol.

**Question:** Organizations want to know if in addition to completing the voucher as required by 820 KAR 1:046 Section 6, can they take money equaling the fair market value of the pull tabs given away and buy the pull tabs from the pull-tab counter.

**Answer:** Yes - an organization can do one of two things:

- 1) Have the bingo payout person complete a voucher and give it to the pull-tab manager; or
- 2) Have the bingo payout person complete a voucher and give it to the pull-tab manager and give the pull tab manager a sum of money equal to the fair market value of

the pull tabs awarded, essentially “buying” the pull tabs.

### **Carryover Door Prizes**

**Question:** Are carryover door prizes or discounts, i.e. every time you come in you put your name in a jar and once a month they draw, every time you come you get your coupon punched and you get the 10 pack for free or at a discount, or player reward programs allowed?

**Answer:** Yes – it is considered a door prize and the fair market value of the prize would have to be included in the \$5,000 payout limit on the night it is given away. KRS 238.545(1)(a) provides that “no licensed charitable organization shall award prizes for bingo that exceed \$5,000 in fair market value per 24 hour period, including the value of door prizes.” 820 KAR 1:040 Section 10 (1) provides “the values of bingo cards or free packets or charity game tickets awarded players, whether awarded as door or bingo prizes, as birthday prizes, or for any other reason, shall be included in the price limit of \$5,000 per 24 hour period prescribed in KRS 238.545(1).”

**Note:** Below is how to handle the different scenarios:

Get ticket punched and get 10th bingo pack free – a voucher would need to be completed and fair market value (FMV) would need to be included in payout limit on night pack given away;

Get ticket punched and get 10th pack at a discount – would have to have a different set of paper and FMV would need to be included in payout limit on night pack

given away;

Put a ticket in a jar every time you come for a month and on the last night of the month they draw for a prize – FMV of prize given away should be listed on the session sheet as a door prize the night it is given away and FMV would need to be included in payout limit on night given away; and

Point of sale tracks patrons who buy a CMD and the person who buys the most during the month gets a prize - FMV of prize given away should be listed on the session sheet as a door prize the night it is given away and FMV would need to be included in payout limit on night given away.

### Accounting

**Question:** Can an organization sign a withdrawal slip for start up cash?

**Answer:** No – they must use a check. KRS 238.550(3) provides that no check drawn on the charitable gaming account may be made payable to cash or bearer, except that a licensed charitable organization may withdraw start-up funds for a charitable gaming event or session from the charitable gaming account by check made payable to cash or bearer. The start-up funds must be redeposited into the charitable gaming account together with all adjusted gross receipts derived from the particular event or session. Checks shall be imprinted with the words “charitable gaming account” and shall contain the organization’s license number on the face of each check. Payments for charitable gaming

expenses, prizes purchased and charitable donations may be made by electronic funds transfer if the payments are made to specific persons or organizations.

**Question:** How does an organization account for food expenses if provided to all patrons who enter a special limited charity fundraising event (SLCFE) including a poker tournament?

**Answer:** The cost of that food comes from the gaming account and it is reported on the quarterly report as an promotional expense. 820 KAR 1:056 Section 4 (3)

**Question:** Who can make nightly deposits from gaming session receipts?

**Answer:** KRS 238.550 (1) states that “all adjusted gross receipts from charitable gaming shall be handled only by chairpersons, officers or employees of the licensed charitable organizations.”

**Question:** How does an organization handle credit card fees?

**Answer:** Credit cards fees can be deposited into the charitable gaming account and included in gross receipts pursuant to 820 KAR 1:057 Section 1 (8)

**Question:** Why does the Office request how money is spent from the general account?

**Answer:** There are a couple of instances in which this would occur:

1) In order for an organization to obtain and maintain a license, KRS 238.535(8)(c) requires that the organization demonstrate that it has

*made reasonable progress towards its charitable goal. Therefore, the Office asks on the license application how the organization has spent its money. If the information provided on the application is unclear as to whether that money is spent for its charitable purpose, the Office may ask for additional information including copies of checks.*

*(2) The Office will review the general account during an audit to ensure that money is being spent towards its charitable purpose and not for an unlawful purpose such as compensating individuals.*

### **Charity Fundraising Event Gaming Occasion Programs**

**Question:** Are organizations required to have a gaming occasion program during their charity fundraising event (CFE)?

**Answer:** Yes...for their bingo game and any special limited games played as a tournament. 820 KAR 1:058 Section 8 (3) (b); 820 KAR 1:058 Section 1. Otherwise...no.

### **Special Limited Games at a CFE**

**Question:** Do special limited games played at a CFE have to comply with all the requirements of KRS 238.547?

**Answer:** No – the regulation is incorrect and a change will be proposed.

### **Donations**

**Question:** Can one organization make donations to another organization?

**Answer:** Yes – but only if it is within their charitable purpose to donate to other

groups. KRS 238.535(8) (c) provides that the organization shall demonstrate to the satisfaction of the office that the organization has made reasonable progress in accomplishing its charitable purpose during this period. “As used in this paragraph, ‘reasonable progress in accomplishing its charitable purposes’ means the regular and uninterrupted conduct of activities within the Commonwealth or the expenditure of funds within the Commonwealth to accomplish relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental or municipal purposes or advancement of those purposes delineated in KRS 238.505(3).”

Therefore, a group may make donations to other groups only if it is within their charitable purpose as stated on the license application or in the articles of incorporation and in the application to the IRS to obtain tax exempt status.

**Question:** Can organizations make donations to other groups to work their games?

**Answer:** No - KRS 238.540(4) provides that “[n]o person engaged in the conduct and administration of charitable gaming shall receive any compensation for services related to the charitable gaming activities, including tipping.” An organization is considered a legal person. Therefore, they cannot receive any compensation for working a game.

If the charitable purpose of the organization with a gaming license allows donations to other groups and it is making donations to groups that work its game, it becomes a factual analysis to determine if the donation is in exchange for working the game. The office looks to how often the group works the game, how often the donation is made, whether the donation is an odd or even number and how much the donation is.

### **Licensing**

**Question:** In addition to bingo sessions, do organizations have to inform the office exactly when and where they are going to game?

**Answer:** Yes - for bingo, pulltabs and non-cash prize wheels the organization has to provide this information in the license application and it is printed on the license.

Currently, organizations can list these times of gaming in answer to the question above. However, the license application is going to be amended to make it easier to list the times of other types of gaming. If the information is not contained in the license application then a change of request must be completed and the organization must pay \$25.

As for raffles, the office presumes that organizations are drawing at their office or gaming location. They do not have to tell us when. If they are going to change location, they have to complete a change of request and pay \$25. 820 KAR 1:015 Section 4.

**Question:** Why does the OCG need the social security number of the officers?

**Answer:** The statute requires that the organization provide the social security number of all officers. KRS 238.535(9)(f). This information is used for criminal history checks and is not disclosed in open record requests.

### **Distributors**

**Question:** Is it acceptable for a distributor to deliver supplies to an organization and leave supplies outside the locked storage cabinet of the organization?

**Answer:** No – the pertinent regulations are: 820 KAR 1:032 Section 11 (2) and 820 KAR 1:042 Section 5 (2) which allow the distributor to deliver the supplies to a person or leave supplies at a location and 820 KAR 1:036 Section 1 (4) and 820 1:046 Section 1 (6) which requires an organization to store their charitable gaming supplies in a secure storage area.

Pursuant to the regulation, the distributor may make delivery in two ways: The distributor may deliver supplies to a person and have that person sign the invoice; or the distributor may deliver supplies to a location and the organization must contest the invoice within seven days if parties disagree. In the second situation if the supplies are not placed in a locked storage area by the distributor, ownership of the supplies has not changed hands and the distributor is storing charitable gaming supplies in a facility and may be in violation of KRS

238.530 (10) (i).

Therefore, the appropriate procedure is to have the organization take personal delivery of the supplies or have the distributor place the supplies in the organization's locked storage area.

**Question:** If there is a distributor representative present during an organization's gaming occasion, what can a distributor do?

**Answer:** A distributor representative can only be present to advise, consult and train. Ideally, they would not be present during the gaming session or only infrequently when there is a new group or chairperson. If they are consistently present and giving detailed instructions to the same volunteer every time a compliance officer is present, the office will find that they are functioning as a volunteer for the organization.

If the distributor is present they may instruct the organization on how to operate card-minding systems (computers). Distributors are not allowed to operate the point of sale system, operate the card-minding devices, fix the machines, load or transfer cards or hand the card-minding devices out to patrons. Distributors may pick up the card-minding devices after the organization has completed their gaming occasion and place card-minding devices into the charging racks.

### **Volunteers**

**Question:** Would money supplied by a volunteer to a patron during a gaming occasion to play bingo and pulltabs on

the volunteer's behalf, of which winnings would be split between the patron and the volunteer, constitute volunteer participation in gaming activities?

**Answer:** Yes. It's a partnership/joint venture so the legal effect is the same as if the volunteer was playing in violation of 820 KAR 1:036 Section 1 (5) and 820 KAR 1:046 Section 1 (7).